

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAMEKA DOWDY, JEFFREY HUNTER, SEAN
MILAN, JOEL PURSER, SANDRA CASTRO, CECELIA
ROJAS, KEVON CHISHOLM, RICHARD ORTEGA,
MARISOL CONCEPCION, ROBERT TABON,
RASHEEN ODOM, CARMELITA GORDON-
FLEETWOOD, and RAYMOND PACHECO,
On behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.
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**NOTICE OF MOTION TO
DISMISS THE THIRD
AMENDED CLASS
ACTION COMPLAINT**

22 Civ. 6284 (ALC) (SDA)

PLEASE TAKE NOTICE that upon the accompanying Declaration of Assistant Corporation Counsel Talysia Francis, dated March 22, 2024, and the exhibits annexed thereto, and the accompanying Memorandum of Law dated March 22, 2024, and all the papers and proceedings heretofore had herein, Defendant will move this Court, before the Honorable Andrew L. Carter, Jr., United States District Judge, Southern District of New York, at the United States Courthouse located at 40 Foley Square, New York, New York, 10007, on a date and time to be designated by the Court, for an order and judgment, pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure dismissing Plaintiffs' Third Amended Class Action Complaint in its entirety on the grounds that some of Plaintiffs' claims are time-barred, that Plaintiffs lack standing to bring this action and that the Third Amended Class Action Complaint otherwise fails to state a claim on which relief may be granted.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court’s order dated March 12, 2024, ECF Dkt. No. 145, opposition papers, if any, must be served by May 3, 2024, and Defendant’s reply must be served by May 24, 2024.

PLEASE TAKE FURTHER NOTICE that Defendant also requests, pursuant to Fed. R. Civ. P.26(c), a stay of discovery pending the outcome of Defendant’s motion to dismiss. See Farzan v. Bridgewater Assocs., LP, 699 F. App’x 57, 58 (2d Cir. 2017) (finding “ample reason to stay discovery in light of Appellant’s history of similar litigation and the low likelihood that the case would move past the motion to dismiss stage”); Wills v. Amerada Hess Corp., 379 F.3d 32, 41 (2d Cir. 2004) (District courts have “broad discretion to direct and manage the pre-trial discovery process.”); D.L. Cromwell Invs., Inc. v. NASD Regulation, Inc., No. 02 civ. 3823 (LAK), 2002 U.S. Dist. LEXIS 11937 (S.D.N.Y. July 1, 2002) (discovery stayed pending defendants’ motion stay discovery pending determination of motion to dismiss, noting that “there is substantial reason, even at this early stage, to believe that defendant is entirely correct in suggesting that this action is frivolous and, indeed, a bad faith attempt to circumvent prior rulings . . .”).

Date: New York, New York
March 22, 2024

HON. SYLVIA O. HINDS-RADIX

Corporation Counsel of the
City of New York
Attorney for Defendant
100 Church Street, Room 2-123
New York, New York 10007
(212) 356-2465
tafranci@law.nyc.gov

By: /s/ Talysia Francis

Talysia Francis
Assistant Corporation Counsel

TO: Phillip H. Seelig, Esq. (via ECF)
Seelig Law Offices, LLC
Attorneys for Plaintiffs
299 Broadway, Suite 1600
New York, NY 10007
(212) 766-0600
phil@pseeliglaw.com

Matthew J. Porcaro, Esq. (via ECF)
Seelig Law Offices, LLC
Attorneys for Plaintiffs
299 Broadway, Suite 1600
New York, NY 10007
(212) 766-0600
matt@pseeliglaw.com

Steven J. Moser, Esq. (via ECF)
Moser Law Firm, PC
Attorneys for Plaintiffs
5 E Main Street
Huntington, NY 11743
(516) 671-1150
steven.moser@moserlawfirm.com

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**NOTICE OF MOTION TO DISMISS THE
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HON. SYLVIA O. HINDS-RADIX

Corporation Counsel of the City of New York

Attorney for Defendant

100 Church Street, Room 2-123

New York, New York 10007-2601

Of Counsel: Talysia Francis

Tel: (212) 356-2465

Matter No.: 2022-044833

Due and timely service is hereby admitted.

New York, N.Y., 2024

Attorney for